

## Department of State

## § 122.4

sent to the registrant of record at least 60 days prior to its expiration date.

(b) *Expiration of registration.* A registrant must submit its request for registration renewal at least 30 days but no earlier than 60 days prior to the expiration date.

(c) *Lapse in registration.* A registrant who fails to renew a registration and, after an intervening period, seeks to register again must pay registration fees for any part of such intervening period during which the registrant engaged in the business of manufacturing or exporting defense articles or defense services.

[58 FR 39298, July 22, 1993, as amended at 62 FR 27497, May 20, 1997; 69 FR 70889, Dec. 8, 2004; 70 FR 50959, Aug. 29, 2005; 73 FR 41259, July 18, 2008; 73 FR 55440, Sept. 25, 2008; 76 FR 45197, July 28, 2011; 78 FR 52687, Aug. 26, 2013]

### § 122.4 Notification of changes in information furnished by registrants.

(a) A registrant must, within five days of the event, provide to the Directorate of Defense Trade Controls a written notification, signed by a senior officer (e.g., chief executive officer, president, secretary, partner, member, treasurer, general counsel), if:

(1) Any of the persons referred to in § 122.2(b) is indicted or otherwise charged (e.g., by criminal information in lieu of indictment) for or convicted of violating any of the U.S. criminal statutes enumerated in § 120.27 of this subchapter or violating a foreign criminal law on exportation of defense articles where conviction of such law carries a minimum term of imprisonment of greater than 1 year, or becomes ineligible to contract with, or to receive a license or other approval to export or temporarily import defense articles or defense services from any agency of the U.S. Government; or

(2) There is a change in the following information contained in the Statement of Registration:

- (i) Registrant's name;
- (ii) Registrant's address;
- (iii) Registrant's legal organization structure;
- (iv) Ownership or control;
- (v) The establishment, acquisition, or divestment of a U.S. or foreign subsidiary or other affiliate who is engaged in manufacturing defense arti-

cles, exporting defense articles or defense services; or

(vi) Board of directors, senior officers, partners, or owners.

NOTE 1 TO PARAGRAPH (a): All other changes in the Statement of Registration must be provided as part of annual registration renewal.

NOTE 2 TO PARAGRAPH (a): For one year from the effective date of the rule, "Amendment to the International Traffic in Arms Regulations: Registration and Licensing of Brokers, Brokering Activities, and Related Provisions," RIN 1400-AC37, the following changes must be provided as part of the annual registration renewal: Pursuant to § 129.3(d) of this subchapter, changes to combine an existing broker registration with an existing manufacturer/exporter registration; and pursuant to § 122.2(a) of this subchapter, changes to an existing registration to remove partially owned and not otherwise controlled subsidiaries or affiliates, which are not the subject of an internal reorganization, merger, acquisition, or divestiture.

(b) A registrant must notify the Directorate of Defense Trade Controls by registered mail at least 60 days in advance of any intended sale or transfer to a foreign person of ownership or control of the registrant or any entity thereof. Such notice does not relieve the registrant from obtaining the approval required under this subchapter for the export of defense articles or defense services to a foreign person, including the approval required prior to disclosing technical data. Such notice provides the Directorate of Defense Trade Controls with the information necessary to determine whether the authority of § 38(g)(6) of the Arms Export Control Act regarding licenses or other approvals for certain sales or transfers of defense articles or data on the U.S. Munitions List should be invoked (see §§ 120.10 and 126.1(e) of this subchapter).

(c) The new entity formed when a registrant merges with another company or acquires, or is acquired by, another company or a subsidiary or division of another company shall advise the Directorate of Defense Trade Controls of the following:

(1) The new firm name and all previous firm names being disclosed;

(2) The registration number that will survive and those that are to be discontinued (if any);

(3) The license numbers of all approvals on which unshipped balances will be

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shipped under the surviving registration number, since any license not the subject of notification will be considered invalid; and

(4) Amendments to agreements approved by the Directorate of Defense Trade Controls to change the name of a party to those agreements. The registrant must, within 60 days of this notification, provide to the Directorate of Defense Trade Controls a signed copy of an amendment to each agreement signed by the new U.S. entity, the former U.S. licensor and the foreign licensee. Any agreements not so amended will be considered invalid.

(d) Prior approval by the Directorate of Defense Trade Controls is required for any amendment making a substantive change.

[58 FR 39298, July 22, 1993, as amended at 71 FR 20540, Apr. 21, 2006; 78 FR 52687, Aug. 26, 2013]

### § 122.5 Maintenance of records by registrants.

(a) A person who is required to register must maintain records concerning the manufacture, acquisition and disposition (to include copies of all documentation on exports using exemptions and applications and licenses and their related documentation), of defense articles; of technical data; the provision of defense services; brokering activities; and information on political contributions, fees, or commissions furnished or obtained, as required by part 130 of this subchapter. Records in an electronic format must be maintained using a process or system capable of reproducing all records on paper. Such records when displayed on a viewer, monitor, or reproduced on paper, must exhibit a high degree of legibility and readability. (For the purpose of this section, “legible” and “legibility” mean the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. “Readable” and “readability” means the quality of a group of letters or numerals being recognized as complete words or numbers.) This information must be stored in such a manner that none of it may be altered once it is initially recorded without recording all changes, who made them, and when

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they were made. For processes or systems based on the storage of digital images, the process or system must afford accessibility to all digital images in the records being maintained. All records subject to this section must be maintained for a period of five years from the expiration of the license or other approval, to include exports using an exemption (*see* § 123.26 of this subchapter); or, from the date of the transaction (e.g., expired licenses or other approvals relevant to the export transaction using an exemption). The Deputy Assistant Secretary of State for Defense Trade Controls and the Director of the Office of Defense Trade Controls Licensing may prescribe a longer or shorter period in individual cases.

(b) Records maintained under this section shall be available at all times for inspection and copying by the Directorate of Defense Trade Controls or a person designated by the Directorate of Defense Trade Controls (e.g., the Diplomatic Security Service) or U.S. Immigration and Customs Enforcement, or U.S. Customs and Border Protection. Upon such request, the person maintaining the records must furnish the records, the equipment, and if necessary, knowledgeable personnel for locating, reading, and reproducing any record that is required to be maintained in accordance with this section.

[70 FR 50959, Aug. 29, 2005, as amended at 79 FR 8084, Feb. 11, 2014]

## PART 123—LICENSES FOR THE EXPORT AND TEMPORARY IMPORT OF DEFENSE ARTICLES

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- 123.1 Requirement for export or temporary import licenses.
- 123.2 Import jurisdiction.
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- 123.6 Foreign trade zones and U.S. Customs and Border Protection bonded warehouses.
- 123.7 Exports to warehouses or distribution points outside the United States.
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